IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO. 78 OF 2007

The Commissioner of Customs .... Appellant (General)

Vs.

M/s Srikrishna Logistics .... Respondents

Mrs. N.V. Masurkar with Ms. Anamika Malhotra for Appellant.

Mr. D.B. Shroff, Sr. Counsel with Mr. S.N. Kantawala, Mr. Vinod Kothari & Mr. Vinay Anturkar i/b Apex Law Partners for Respondents.

CORAM : F.I. REBELLO, &
J.P. DEVADHAR, JJ.

DATE : 9TH AUGUST, 2007

P.C.

1) The Commissioner of Customs (General), Mumbai Zone-I has suspended the operation of CHA Licence of the respondents vide order dated 9th October 2006 and thereafter various proceedings have taken place. On 1/3/2007, the Customs, Excise & Service Tax Appellate Tribunal, considering the record and the various judgments relied upon including the judgment of this Court, has been pleased to set aside the order of suspension and at the same time had granted liberty to the appellant

to proceed with the regular enquiry against the CHA under the 2004 Regulations, which is the subject matter of the present appeal. The substantial question of Law is set out as under :

> "In the premises stated above the Appellant submits that the following substantial Question of Law arises for determination of this Hon'ble Court. Whether the CESTAT is justified in setting aside the suspension of the CHA Licence considering that in the facts and circumstances of the claim and upon the material available on the Court such setting aside is perverse in law ?"

2) In our opinion, there was a power in the Tribunal, considering the material on record, to set aside the order of suspension. Once the power is exercised which was within its jurisdiction, it is not possible for us to exercise our jurisdiction unless the order suffers from a patent illegality. In the instant case, it is not so.

3) We, therefore do not find any substantial question of law is involved. Hence, the appeal is dismissed.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)